

1 Adopt 2 Cal. Code Regs. section 18531.7 as follows:

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3 **18531.7. Payments for Communications -- Section 85312.**

4 (a) Organization Making the Payment. For purposes of Government Code section 85312,
5 "payments for communications to members" are any payments made by {Decision 3}[or to] an
6 organization for communications including but not limited to newsletters, letters and fliers to its
7 members, employees, or shareholders, or to the families of its members, employees, or shareholders.
8 "Payments for communications to members " do not include any payments made by an organization
9 for general public advertising such as broadcasting, billboards, and newspaper advertisements or for
10 communications to persons who are not members, employees, or shareholders, or families of
11 members, employees, or shareholders of the organization.

12 (1) An "organization" means a sole proprietorship, firm, partnership, joint venture, syndicate,
13 business trust, company, corporation, limited liability company, association, labor union and any
14 other organization or group of persons acting in concert, including a committee as defined by
15 Government Code section 82013, but excluding a political party, candidate or individual.

16 **{Decision 1: "member defined" - Option 1:}**

17 [(2) "Member" means any person who, pursuant to the organization's articles, bylaws,
18 constitution or other formal organizational documents, either:

19 (A) Pays regular membership dues or pays an amount predetermined for membership by the
20 organization; or

21 (B) Has a significant organizational attachment to the organization which includes affirmation
22 of membership on at least an annual basis and participatory rights in the governance of the
23 organization. Participatory rights include but are not limited to the following:

24 (i) The right to vote for at least one individual on the organization's highest governing board;

1 (ii) The right to vote on policy questions where the highest governing body of the membership
2 is obligated to abide by the results; or

3 (iii) The right to approve the organization's annual budget.]

4 **{Decision 1: "member defined" - Option 2:}**

5 [(2) "Member" means any person who, pursuant to a specific provision of an organization's
6 articles or bylaws, has the right to vote for the election of a director or directors or on a disposition of
7 all or substantially all of the assets of the organization or on a merger or on a dissolution. "Member"
8 also means any person who is designated in the articles or bylaws as a member and, pursuant to a
9 specific provision of an organization's articles or bylaws, has the right to vote on changes to the
10 articles or bylaws.

11 **{Decision 2:}** [(3) In the case of a committee as defined by Government Code section 82013,
12 subdivision (a), a "member" also includes any person who has made contributions [totaling \$100 or
13 more] to the committee [during the period commencing January 1 of the year prior to the year in which
14 the communication is made]. A person is a "member" of a sponsored committee if that person is a
15 member of the committee's sponsoring organization and has made any contribution to the committee.]

16 (4) A person is not a "member" of an organization if the person is only on a mailing or contact
17 list of the organization without meeting the definition provided in subdivisions (a)(2) or (a)(3) of this
18 regulation.

19 (5) "Shareholder" means the person in whose name shares are registered in the records of a
20 corporation or the beneficial owner of shares to the extent of the rights granted by a nominee
21 certificate on file with a corporation.

1 (6) "Family" means a member's, employee's, or shareholder's spouse, domestic partner as
2 defined by Family Code section 297, dependent children, and parents who reside with the member,
3 employee, or shareholder.

4 (b) An organization meets the requirements of subdivisions (a)(1) and (a)(2) of this regulation
5 where it is comprised of 25 or fewer individuals and the communication is directed only to those
6 individuals and their families.

7 (c) Calculation of Payments Subject to Government Code section 85312.

8 "Payments for communications" includes the following:

9 (1) Any payment made by an organization for costs directly attributable to the communication
10 including but not limited to salaries, production, postage, space or time purchased, agency fees,
11 printing and any additional administrative or overhead costs attributable to the communication.

12 (2) Any payment for costs directly attributable to a communication from an organization
13 inadvertently delivered to persons other than members, employees, or shareholders or families of
14 members, employees, or shareholders provided those costs do not exceed \$100 or 5% of the total cost
15 of the communication to an organization's members, employees, or shareholders or families of
16 members, employees, or shareholders, whichever is higher, notwithstanding subdivision (c)(1) above.

17 **{Decision 3:}** [(d) Pursuant to Government Code section 85312 and this regulation, a payment
18 for a communication to members is not a contribution or expenditure provided the communication is
19 not paid for by a third party, or paid from funds received by the organization that are earmarked for the
20 communication.]

21 **{Decision 4:}** [(e) A payment that is made at the behest of a candidate or committee for
22 communications to members, employees, shareholders, or families of members, employees, or
23 shareholders of an organization for the purpose of supporting or opposing a candidate or a ballot

1 measure [Option A: is] [Option B:is not] a contribution to the behesting candidate or committee.] or
2 [Option C: is not a contribution to the behesting candidate or committee when the communication is
3 created by the member organization and not by the candidate or committee which it supports.]

4 (f) If the organization is a committee organized under Government Code section 82013,
5 subdivision (a), and therefore already subject to the reporting requirements of Chapter 4 of this title,
6 the payment is reportable in accordance with the requirements of Government Code section 84211,
7 subdivisions (b), (i), (j) and (k).

8 (g) Provisions of Government Code section 85312 and this regulation apply to
9 communications supporting or opposing a local candidate or local measure.

10 NOTE: Authority cited: Section 83112, Government Code.
11 Reference: Sections 82015, 82025, 85303, 85312 and 85703, Government Code.
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